



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/152092

PRELIMINARY RECITALS

Pursuant to a petition filed September 10, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Kenosha County Human Service Department in regard to Medical Assistance, a hearing was held on October 15, 2013, at Kenosha, Wisconsin.

The issue for determination is whether the Kenosha County Human Service Department correctly terminated Petitioner's BadgerCare+ benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Karen Mayer, Fair Hearing Coordinator
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On July 16, 2013, the agency sent Petitioner a notice indicating that effective August 1, 2013, she would need to be paying a premium of \$82.00 month to continue receiving healthcare benefits. (Exhibit 7)

3. On August 19, 2013, the agency sent Petitioner a notice indicating that as of September 1, 2013, her health care benefits would be ending, because she did not pay the required premium and that to continue her benefits, she would need to pay the premium by the end of September 2013. (Testimony of Ms. Mayer)
4. The agency has no record of a coupon for the premium payment being sent to Petitioner in August 2013. (Testimony of Ms. Mayer)
5. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on September 12, 2013. (Exhibit1)
6. After Petitioner filed her appeal, the agency sent Petitioner a payment coupon so that she could pay her August and September 2013 premiums, with a due date of September 27, 2013. (Testimony of Ms. Mayer)
7. The agency did not receive any payments toward premiums from Petitioner. (Testimony of Ms. Mayer)
8. Petitioner has a household size of 2, which includes her child. (Testimony of Petitioner)
9. Petitioner receives child support in the amount of \$205.24 every other week. (Testimony of Petitioner; Exhibit 4)
10. Petitioner earns \$800.00 every other week (Testimony of Petitioner; Exhibit 3)

DISCUSSION

Unless a member of a category of exempt individuals (i.e. pregnant women under age 19, continuously eligible newborns, etc.) the following individuals must pay a premium to become or remain eligible for BadgerCare+:

1. Children in families with income over 200% of the Federal Poverty Level (FPL)
2. Parents, stepparents and caretaker relatives with income over 133% through 200% of the FPL
3. Parents, stepparents and caretaker relatives with income over 133% in a BadgerCare+ extension and
4. Self-employed parents, stepparents and caretaker relatives with income above 200% of the FPL before subtracting the depreciation but below 200% of the FPL after subtracting the depreciation.

BadgerCare+ Eligibility Handbook (BEH) §19.1

For BadgerCare+ purposes, only actual gross monthly income is used. Estimated amounts using the 4.3 weekly pay period or 2.15 bi-weekly pay period multipliers are NOT used. *Process Help §16.4.1*; see also *Ops Memo 01-01*.

Petitioner's gross income is determined as follows:

Child support: \$205.24 bi-weekly x 2 bi-weekly pay periods per month = \$410.48

Earned income: \$800 bi-weekly x 2 bi-weekly pay periods per month = \$1600.00

Total monthly income: \$1600 + \$410.48 = \$2010.48

Because Petitioner is a parent and her gross income of \$2010.48 is over the 133% FPL threshold of \$1719.03 for a household of 2, she must pay a premium to continue receiving healthcare benefits. (See BEH §50.1 for FPL information.)

If the (adult) individual fails to pay the premium, her BadgerCare+ case will close. She will not be allowed to re-enroll in BadgerCare+ for 12 months, unless the failure to pay was for good cause. Wis. Adm. Code § DHS 103.085(3)(b)1; *BEH* § 19.8.1

Good cause for not paying a premium includes the following:

1. Problems with the financial institution.
2. CARES problem.
3. Local agency problem.
4. Wage withholding problem.
5. Fair hearing decision.

BadgerCare Plus Eligibility Handbook, § 19.8.3

The agency indicated that it had no record of sending Petitioner a coupon for the premium payment. This would be a problem at the local agency, and as such, Petitioner had good cause for her failure to pay the premium by August 31, 2013. However, in September 2013, the agency sent Petitioner a payment coupon so that she could pay her August and September 2013 premiums. Petitioner did not contest the fact that she did not pay the required premium. Petitioner asserts that she had good cause for her failure to pay the premium because she has so many other household expenses and could not incur any additional expenses. Regrettably, inability to pay the required premium is not considered good cause under *BEH* §19.8.3.

CONCLUSIONS OF LAW

The agency correctly terminated Petitioner's BadgerCare+ benefits, effective September 1, 2013.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

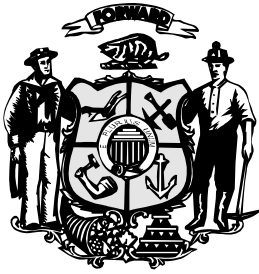
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 17th day of October, 2013.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoeft, Acting Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 17, 2013.

Kenosha County Human Service Department
Division of Health Care Access and Accountability